THE HON'BLE Mr. JUSTICE B. SUDERSHAN REDDY

And

THE HON'BLE Mr. JUSTICE S. ANANDA REDDY

W.P. No.12488 OF 2001

Date: 21-10-2005

Between:

M/s. Gopal Roller Flour Mills Pvt. Limited,

having its office at 130, Srinagar Colony,

Hyderabad, Rep. by its Director Sri R.N. Gupta

S/o. J.R. Gupta, aged 62 years & 4 others

.. Petitioners

AND

Food Corporation of India,

Rep. by its Regional Manager

and Deputy Manager ,

HACA Bhawan, 3rd Floor, Public Garden Road,

Hyderabad & another

.. Respondents

THE HON'BLE Mr. JUSTICE B. SUDERSHAN REDDY

And

THE HON'BLE Mr. JUSTICE S. ANANDA REDDY

W.P. No.12488 OF 2001

ORDER: (Per Hon'ble Mr. Justice B. Sudershan Reddy)

The writ petition, in our considered opinion, is totally misconceived. The prayer in the writ petition is in the nature of a money decree, which cannot be granted by this Court in exercise of its jurisdiction under Article 226 of the Constitution of India.

Be that as it may, the dispute between the petitioners and the Food Corporation of India (for short 'FCI') arises out of the concluded contract between the petitioners and the FCI. The relief of refund sought for in this writ petition is totally misconceived. No authority has so far decided that the petitioners are entitled to the refund of the amounts collected by the FCI and the FCI has retained the said amounts without any authority of law. There is a serious dispute as to the liability of the petitioners and the entitlement of the FCI to levy and collect the sales tax at 3%. Such dispute cannot be adjudicated in a summary proceeding under Article 226 of the Constitution of India.

The Writ Petition is accordingly dismissed with leave and liberty granted to the petitioners to avail such remedies as may be available to them, in law, in which event, the matter has to be decided on its merits uninfluenced by the dismissal of this writ petition. No order as to costs.

_____

B. SUDERSHAN REDDY, J

Date:21-10-2005.

S. ANANDA REDDY, J

PV